

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RONALD N. TOTARO,

Petitioner,

v.

H.J. MARBERRY, Warden,

Respondent.

Civil Action No. 07-109 Erie

MEMORANDUM ORDER

This habeas corpus action was received by the Clerk of Court on May 14, 2007, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 13], filed on May 14, 2008, recommended that Petitioner's Petition be dismissed for lack of subject matter jurisdiction. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendant. No objections were filed. After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 4th day of June, 2008;

IT IS HEREBY ORDERED that the Petitioner's Petition for Writ of Habeas Corpus is DISMISSED for lack of subject matter jurisdiction.

The Report and Recommendation [Doc. No. 13] of Magistrate Judge Baxter, filed on May 14, 2008, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge